

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

WACHENDORFF-NEUMANN *et al.*

Appl. No.: 10/573,066

§ 371(c) Date: October 24, 2006

For: **Synergistic Fungicidal Active
Substance Combinations**

Confirmation No.: 6965

Art Unit: 1627

Examiner: PIHONAK, Sarah

Atty. Docket: 2400.0230000/RWE

Fifth Supplemental Information Disclosure Statement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on the accompanying IDS Forms PTO/SB/08a equivalent and/or PTO/SB/08b equivalent are documents that may be considered material to the patentability of this application as defined in 37 C.F.R. §1.56, and in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.97 and 1.98. The numbering on this Fifth Supplemental Information Disclosure Statement is a continuation of the numbering in Applicants' previously filed Information Disclosure Statements in connection with the above-captioned application. Copies of documents **NPL52** and **NPL54-NPL56** are provided. However, in accordance with 37 C.F.R. § 1.98(a)(2), no copies of U.S. patents and patent application publications cited as documents US136-US147 on the attached IDS Form are submitted.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is

not in issue. Applicants have listed publication dates on the attached IDS Forms based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

This Information Disclosure Statement is being filed before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No statement or fee is required.

In accordance with the Federal Circuit decision in *Dayco Prods., Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. 2003), Applicants submit herewith an Office Action from the co-pending U.S. Patent Application No. 11/916,436, § 371(c) Date: November 7, 2008, as document **NPL52**. The identification of this Office Action is not to be construed as a waiver of secrecy as to those applications now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.

A concise explanation of the relevance of the non-English language document(s) appears below in accordance with 37 C.F.R. § 1.98(a)(3):

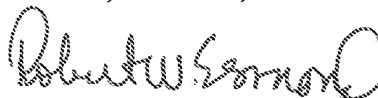
Document **NPL54** is in the German language. Document **NPL55** is believed to be an English translation of the text portion of document **NPL54**.

It is respectfully requested that the Examiner initial and return a copy of the enclosed IDS Forms, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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